IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NOS. 168 AND 175 OF 2004

WRIT PETITION NO. 168 OF 2004

1. Smt. Maria Cecilia Sequeira,
   Major, r/o Comba,
   Margao, Goa.

2. Shri Antonio Xavier Noronha,
   Major, r/o House No.218,
   Madel Pequeno, Margao, Goa.

3. Shri Xavier Fernandes,
   Major, r/o House No.240,
   Fatorda, Margao, Goa.

4. Shri Florence Cardozo,
   Major, r/o House No.849,
   Fatorda-Virabhatt, Margao.

5. Smt. Caitan Barreto,
   Major, r/o House No.8,
   Chandra Vaddo, Fatorda.

6. Smt. Tibuzin E. Costa
   e Batista, Major,
   r/o House No.112,
   Comba, Margao, Goa.

7. Shri Roque Fernandes,
   Major, r/o House No.197,
   Madel Grande, Margao.

8. Shri Herculano Fernandes,
   Major, r/o House No.182,
   Madel Grande, Margao-Goa.

9. Shri Minguel R. Costa,
   Major, r/o House No.209,
   Madel Pequeno, Margao-Goa.

10. Shri Casmiro Fernandes,
    Major, r/o House No.182,
    Madel Grande, Margao.

11. Shri Rocky S. Mendes,
    Major, r/o House No.238,
    Madel Pequeno,
    Margao, Goa.

12. Shri Antonio D'Costa,
    Major, r/o Madel Pequeno,
    Margao, Goa.

13. Smt. Juliana Braganza,
Major, r/o H.No.254,
Madel Pequeno,
Margao, Goa.

14. Shri Remedios Rodrigues,
Major, r/o House No.169,
Madel Grande, Margao.

15. Shri Judas D'Costa,
Major, r/o House No.252,
Madel Pequeno, Margao.

16. Smt. Santana Crasto,
Major, r/o Santemol,
Raia, Goa.

17. Smt. Aura Telesfora Mendes,
Major, R/o House No.238,
Maddel Pequeno,
Margao, Salcete, Goa. ... Petitioners.

versus

1. State of Goa,
Through its Chief Secretary,
Government of Goa,
Secretariat, Panaji, Goa.

2. The Deputy Collector &
Sub Divisional Officer,
Salcete, Margao, Goa.

3. The Collector,
South Goa District,
Collectorate Building,
Margao, Goa.

4. The Special Land Acquisition
Officer, S.I.P. Office,
Gogol, Margao, Goa.

5. The Goa Coastal Zone
Management Authority
With office at Panaji Goa.

6. The South Goa Planning and
Development Authority,
Margao Goa. ... Respondents.

Mrs. A. A. Agni, Advocate for the Petitioners.

Mr. A. N. S. Nadkarni, Advocate General with Mr.H. D. Naik, Additional Government Advocate for Respondent Nos.1 to 5.

Mr. H. D. Naik, Additional Government Advocate for Respondent No.6.

WRIT PETITION NO. 175 OF 2004

1. Shri Joaquim Crasto,
   Major, represented by
   his Power of Attorney
   Holder Felix Menino
   Crasto.

2. Jose Sebastiao Crasto,
   major, resident of
   Dovondem, Margao,
   Salcete, Goa. ... Petitioners.

versus

1. State of Goa
   Through its Chief Secretary,
   Government of Goa,
   Secretariat, Panaji, Goa.

2. The Deputy Collector &
   Sub Divisional Officer,
   Salcete, Margao, Goa.

3. The Collector,
   South Goa District,
   Collectorate Building,
   Margao, Goa.

4. The Special Land Acquisition
   Officer, S.I.P. Office,
   Gogol, Margao, Goa.

5. The Goa Coastal Zone Management
   Authority with office at
   Panaji, Goa.

6. The South Goa Planning and
Development Authority, Margao,
Goa. ... Respondents.

Mrs. A. A. Agni, Advocate for the Petitioners.

Mr. A. N. S. Nadkarni, Advocate General with Mr. H. D. Naik, Additional Government Advocate for Respondent Nos. 1 to 5.

Mr. H. D. Naik, Additional Government Advocate for Respondent No.6.

CORAM : S. A. BOBDE &
N. A. BRITTO, JJ.

DATE : 22ND JUNE, 2004.

ORAL ORDER(PER S.A.BOBDE,J.)

This Order shall dispose of Writ Petition Nos.168 and 175 of 2004.

2. By these Petitions, the Petitioners challenge the Notification issued under Section 4 of the Government of Goa dated 12th December, 2002, and the Notification issued under Section 6 dated 2nd January, 2004, published in the daily 'Herald' dated 8th January, 2004.

3. Two challenges have been levelled against the acquisition of the land in question which is sought to be acquired for the setting up of a truck terminus at Margao. The area that is being acquired is an area of about 1,35,463 sq. meters.

4. Firstly, it was contended by Mrs. A. A. Agni, learned Counsel for the Petitioners that the Notification under Section 6 is published beyond the statutory period of one year required under the Land Acquisition Act. According to the Petitioners, Notification under Section 6 dated 2nd January, 2004, is published on 8th January, 2004. Notification under Section 4 having been published on 12th December, 2002 i.e more than a year prior to Notification under Section 6, the Notification under Section 6 is void. As a result, the acquisition is illegal. This contention is repelled by Mr. A. N. S. Nadkarni, learned Advocate General on behalf of the State by referring to the Affidavit-in-reply on behalf of Respondent Nos.1 and 2 in which it is stated on oath that the Notification dated 2nd January, 2004, is issued within a period of one year from the date of the last publication of the Notification issued under Section 4 of the Act. It is contended, and in our view rightly that the period of limitation is required to be computed from the date of the last publication, which is itself the date of the publication of the Notification. Apparently, since this was disputed, the Respondent/State has also filed along with an Affidavit-in-surrejoinder a document which is a publication report issued by the Mamlatdar of Salcete, Margao, Goa, dated 15th January, 2003, which refers to the Talathi's report and states that the Notification was

published on 14th January, 2003, on the land proposed to be acquired, on the notice board of this Office and on the notice board of the Village Panchayat of Margao. There is no material brought on record by the Petitioners to refute the correctness of this, except a denial. It is explained in the Affidavit that the Village Panchayat of Margao is in fact the Municipality. Having regard to the law laid down by the Supreme Court in the case of **Jhansi Development Authority** v. **Munna Lal Aggarwal and others**(1995 Supp(4) SCC 501), we are satisfied that the publication of Notification under Section 6 dated 2nd January, 2004, is within a period of one year of the publication of Notification under Section 4 which is 14th January, 2003. The Supreme Court has in the said decision observed that Section 4 in terms contemplates that the last date of such publication in the locality as the date of publication of the Notification.

5. The next contention raised on behalf of the Petitioners is that a personal hearing was not given to the Petitioners as contemplated by Section 5-A of the Land Acquisition Act. This does not appear to be correct. The State in paragraph 26 of the Affidavit of Respondent Nos.1 and 2 dated 29th April, 2004, clearly stated that hearing under Section 5-A was fixed on 16th July, 2003, at 10.30 a.m. in the Office of the Deputy Collector and notices were served on all the interested

parties who had filed their objections/representations. The Affidavit further states that on the day of hearing, all except Petitioner Nos.7, 13 and 16 remained present. The Petitioners apparently did not put forward any oral arguments but insisted to consider their written representations. According to the deponents, those representations have been considered. We are satisfied that this is sufficient compliance with the hearing contemplated under Section 5-A of the Land Acquisition Act.

6. Lastly, it was contended on behalf of the Petitioners that the acquisition of land for truck terminus would result in the flooding of the adjoining paddy fields since this contention has also been denied by the State on oath.

7. In paragraph 20 of the Affidavit they have stated that the area which is proposed for acquisition is substantially large and the drainage available in the area is sufficient to drain the area of rain water. The rain water will flow into the river Sal which has been desilted by the State. A solemn statement is also made that all necessary steps including the hydrological survey will be carried out prior to the undertaking of filling of land and other steps wherever found necessary and that the entire work of planning, designing and

execution will be entrusted to a consultant for dealing with any such complexities. The State has also contemplated a water harvesting system with a view to ensure better drainage system. The Petitioners apprehension that heavy floods will be caused to the villages of Gorvoti, Chovoth, Nuvem, Mungul and Seraulim have been denied. Moreover, the deponents have pointed out that the Petitioners contention that the land proposed to be acquired consisting of paddy fields will be flooded has no substance since they have not been cultivated for almost a decade. In these circumstances, we are not inclined to accept this contention.

8. In the result, there is no merit in the Petition which is hereby dismissed.

S. A. BOBDE, J.

N. A. BRITTO, J.

RD.